



Billing Code: 8025-01

U.S. SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 125

RIN 3245-AG22

Small Business Subcontracting

AGENCY: U.S. Small Business Administration

ACTION: Proposed rule; reopening of comment period.

SUMMARY: SBA is reopening the comment period for the proposed rule published in the Federal Register on October 5, 2011 at 76 FR 61626. In that rule SBA proposed to amend its regulations to implement provisions of the Small Business Jobs Act of 2010 (Jobs Act) pertaining to small business subcontracting. SBA proposed to amend its program regulations to provide for a “covered contract” (a contract for which a small business subcontracting plan is required, currently valued above \$1.5 million for construction and \$650,000 for all other contracts), a prime contractor must notify the contracting officer in writing whenever the prime contractor does not utilize a subcontractor used in preparing its bid or proposal during contract performance. SBA also proposed to amend its regulations to require a prime contractor to notify a contracting officer in writing whenever the prime contractor reduces payments to a subcontractor or when payments to a subcontractor are 90 days or more past due. In addition, SBA proposed to clarify that the contracting officer is responsible for monitoring and evaluating small business subcontracting plan performance. SBA also proposed to clarify which subcontracts must be included in subcontracting data reporting, which subcontracts should be excluded, and the way subcontracting data is reported.

SBA also proposed to make other changes to update its subcontracting regulations, including changing subcontracting plan thresholds and referencing the electronic subcontracting reporting system (eSRS). Some of the SBA's proposed changes would require the contracting officer to review subcontracting plan reports within 60 days of the report ending date.

Finally, SBA also proposed to address how subcontracting plan requirements and credit towards subcontracting goals can be implemented in connection with Multi-agency, Federal Supply Schedule, Multiple Award Schedule and Government-wide Acquisition indefinite delivery, indefinite quantity, (IDIQ) contracts.

SBA is reopening the comment period in response to the significant level of interest generated by the proposed rule among small businesses. Given the scope of the proposed rule and the nature of the issues raised by the comments received to date, SBA believes that affected businesses need more time to review the proposal and prepare their comments.

DATES: The comment period for the proposed rule published on October 5, 2011 (76 FR 61626) is extended through January 6, 2012.

ADDRESSES: You may submit comments, identified by RIN: 3245-AG22, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail, for paper, disk, or CD-ROM submissions: Dean Koppel, U.S. Small Business Administration, Office of Government Contracting, 409 Third Street, SW, 8<sup>th</sup> Floor, Washington, DC 20416.

- Hand Delivery/Courier: Dean Koppel, U.S. Small Business Administration,  
Office of Government Contracting, 409 Third Street, SW, 8<sup>th</sup> Floor  
Washington, DC 20416.

SBA will post all comments on [www.regulations.gov](http://www.regulations.gov). If you wish to submit confidential business information (CBI) as defined in the User Notice at [www.Regulations.gov](http://www.Regulations.gov), please submit the information to Dean Koppel, U.S. Small Business Administration, Office of Government Contracting, 409 Third Street, SW, 8<sup>th</sup> Floor, Washington, DC 20416, or send an email to [Dean.Koppel@sba.gov](mailto:Dean.Koppel@sba.gov). Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination on whether it will publish the information or not.

FOR FURTHER INFORMATION CONTACT: Dean Koppel, Office of Government Contracting, 409 Third Street SW, Washington, DC 20416; (202) 205-9751; [Dean.Koppel@sba.gov](mailto:Dean.Koppel@sba.gov).

Dated: November 14, 2011.

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[FR Doc. 2011-30927 Filed 11/30/2011 at 8:45 am; Publication Date: 12/01/2011]